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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,289	09/16/2003	Katherine Woo	2043.140US1	4544
49845 7590 11/12/2010 SCHWEGMAN, LUNDBERG & WOESSNER/EBAY P.O. BOX 2938 MINNEAPOLIS, MN 55402				
EXAMINER				
LASTRA, DANIEL				
ART UNIT		PAPER NUMBER		
3688				
NOTIFICATION DATE		DELIVERY MODE		
11/12/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTO@SLWIP.COM
request@slwip.com

Office Action Summary

Application No.

10/664,289

Applicant(s)

WOO, KATHERINE

Examiner

DANIEL LASTRA

Art Unit

3688

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 4-7, 9-21, 42 and 43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4-7, 9-21, 42 and 43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-06)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1, 4-7, 9-21, 42 and 43 have been examined. Application 10/664,289 (METHOD AND SYSTEM FOR OFFERING A MONEY-BACK GUARANTEE IN A NETWORK-BASED MARKETPLACE) has a filing date 09/16/2003.

Response to Amendment

2. In response to Advisory action filed 01/14/10, the Applicant filed an RCE on 01/27/10, which amended claims 1, 42, 43.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4-5, 7, 9-21, 42 and 43 are rejected under 35 U.S.C. 102(e) as being anticipated by Cales (US 2003/0135421).

Claims 1, 42 and 43, Cales teaches:

A method of providing a money-back guarantee for a transaction in a network-based marketplace, the method including:

determining that a seller is eligible to offer a buyer the money-back guarantee the determining done at least in part through use of one or more processors and Subsequent to the determining that the seller is eligible to offer the buyer the money back guarantee *contacting the seller to provide* the seller an option to offer the buyer the money-back guarantee (see paragraphs 11, 14, 37 "A BPS fee table is presented to a prospective client (i.e. seller and buyer) at account registration or other appropriate time. The monetary fee may be established as a flat fee or a percentage of the product purchase price")

providing a guarantee interface for the buyer to activate the money-back guarantee associated with the eligible transaction (see paragraph 30)

receiving, via a network interface device, a reimbursement request against the money-back guarantee for the eligible transaction (see paragraph 38-39);

responsive to receiving the reimbursement request, verifying the reimbursement request is eligible for the money-back guarantee (see paragraph 38-39); and

electronically reimbursing the buyer a predetermined amount associated with the eligible transaction and the money-back guarantee (see paragraph 39).

Claim 4, Cales teaches:

providing a seller interface for the seller to choose whether the money-back guarantee is offered on the eligible transaction (see paragraph 30) .

Claim 5, Cales teaches:

verifying that the eligible transaction is eligible for the money-back guarantee (see paragraph 38-39).

Claim 7, Cales teaches:

wherein the verifying includes determining that a transaction occurred within a predetermined timeframe (see paragraph 39).

Claim 9, Cales teaches:

collecting a fee from the buyer for activating the money-back guarantee, wherein the fee is in addition to the associated transaction cost (see paragraph 37).

Claim 10, Cales teaches:

calculating the fee base upon a predetermined percentage of the transaction amount plus a flat fee (see paragraph 37).

Claim 11, Cales teaches:

receiving payment from the buyer for the money-back guarantee and the associated transaction cost and responsive to receiving the payment, generating a transaction identification number (see paragraph 37).

Claim 12, Cales teaches:

providing a reimbursement request interface for the buyer to submit the reimbursement request against the money- back guarantee associated with the eligible transaction (see paragraph 37-39).

Claim 13, Cales teaches:

wherein the reimbursement request includes a transaction number, date of transaction, reason for the request, and type of item associated with the request (see paragraphs 32-39).

Claim 14, Cales teaches:

wherein the verifying of the reimbursement request includes verifying the eligibility of the transaction and seller for the money-back guarantee and verifying the buyer paid for the money-back guarantee (see paragraph 38-39).

Claim 15, Cales teaches:

reimbursing the buyer if an item associated with the eligible transaction is alleged to be defective (see paragraph 11).

Claim 16, Cales teaches:

reimbursing the buyer if an item associated with the eligible transaction is not received by the buyer (see paragraph 11).

Claim 17, Cales teaches:

reimbursing the buyer if an item associated with the eligible transaction is unwanted (see paragraph 11).

Claim 18, Cales teaches:

wherein the eligible transaction is an online transaction using the Internet (see paragraph 24).

Claim 19, Cales teaches:

wherein the online transaction is associated with an online auction (see figure 1b item 107).

Claim 20, Cales teaches:

wherein the online transaction is a fixed price transaction (see paragraph 37).

Claim 21, Cales teaches:

wherein the network-based marketplace supports transactions between a plurality of sellers and a plurality of buyers (see paragraph 30).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cales (US 2003/0135421) in view of Junger (US 2004/0172260).

Claim 6, Junger teaches:

wherein the verifying includes determining that a transaction amount associated with the eligible transaction does not exceed a predetermined threshold (see paragraph 183). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that that Cales would modify his invention to include a limit in a transaction amount that would be eligible for a return, as taught by Junger in order to put a cap in the amount of money the Cales' protection service would need to return to a buyer or to a seller.

Response to Arguments

5. Applicant's arguments filed 12/28/09 have been fully considered but they are not persuasive. The Applicant argues that Cales does not teach "contacting the seller to

provide the seller an option to offer the buyer the money back guarantee". The Examiner answer that Cales teaches in paragraph 37 that a "A BPS fee table is presented to a prospective client (i.e. seller and buyer) at account registration or other appropriate time. The monetary fee may be established as a flat fee or a percentage of the product purchase price". Therefore, contrary to Applicant argument, Cales teaches "contacting the seller to provide the seller an option to offer the buyer the money back guarantee", as Cales BPS offers the seller an option to accept the BPS fee that would be offered to buyers in order that said buyers purchase money back guarantee protection.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOHN WEISS can be reached on (571) 272-6812. The official Fax number is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/DANIEL LASTRA/
Primary Examiner, Art Unit 3688
November 7, 2010